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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number: 06975-318002
	Application Number 10/800,728	Filed March 16, 2004
	First Named Inventor David W. Nesbitt	
	Art Unit 3663	Examiner Ronnie M. Mancho
	Confirmation No. 1035	

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☒ attorney or agent of record 54,777
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January 9, 2006
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below'.

☒ Total of **5** pages are submitted in addition to this Form and the Notice of Appeal.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: David W. Nesbitt	Art Unit :	3663
Serial No.	: 10/800,728	Examiner :	Ronnie M. Mancho
Filed	: March 16, 2004	Confirmation No.:	1035
Title	: AUTOMATED ROUTE DETERMINATION		

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Pursuant to United States Patent and Trademark Office OG Notices: 12 July 2005 - New Pre-Appeal Brief Conference Pilot Program, a request for a review of identified matters on appeal is hereby submitted with the Notice of Appeal. Review of these identified matters by a panel of examiners is requested because the rejections of record are clearly not proper and are without basis, in view of a clear legal or factual deficiency in the rejections. All rights to address additional matters on appeal in any subsequent appeal brief are hereby reserved.

Claims 1-39 are pending, of which claims 1, 13 and 25 are independent. Claims 1-39 were rejected under 35 U.S.C. § 112, second paragraph as being indefinite. Claims 1-9, 11, 13-21, 23, 25-33, 35, 37, 38 and 39 were rejected under 35 U.S.C. § 102(b) as being anticipated by Fujita (U.S. Patent No. 5,513,110). Claims 10, 12, 22, 24, 34 and 36 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fujita in view of Ohmura (2002/0077745). Applicant requests withdrawal of these rejections. Applicant specifically asks the panel to review the issues highlighted below.

1. Independent Claims 1, 13 and 25 are not indefinite.

The claim language in dispute is found in independent claims 1, 13 and 25. The claim language in claim 1 unambiguously requires using a routing system to access an origin and a destination in a routing graph representing a network of roads that includes two or more nodes and two or more directed links. Claim 1 also requires that each directed link in the routing graph is associated with a direction of travel from a starting node to an ending node and represents a road. Each node in the routing graph represents an intersection that includes at least one road. At least two of the directed links of the routing graph are associated with two nodes that are the same such that (1) a starting node of a first link of the at least two directed links is a same node as an ending node of a second link of the at least two directed links and (2) an ending node of the first link of the at least two directed links is the same node as a starting node of the second link of the at least two directed links. The claim also requires using the routing system to determine a

preferred route from the origin to the destination by using at least one directed link, and communicating the preferred route from the routing system to a user system. Claims 13 and 25 recite similar features. These claims are each unambiguous.

In the final action, the Examiner asserted that there is no possible connection between links and nodes that satisfies the claim language of the independent claims 1, 13 and 25. See final action at page 2, line 6 to page 3, line 1. See also action of April 6, 2005 at page 2, lines 6-23. In the advisory action, however, the Examiner reverses the position taken in the final action. Specifically, in response to arguments presented by applicant in the November 22, 2005 reply, the Examiner notes that the claims may be met, for example, if going from A to B and then from B to A. See line 4 of advisory action addendum.

Nevertheless, the Examiner continues to allege indefiniteness, now pointing out a perceived inconsistency within the claims. Namely, the Examiner points out that claim 1 calls for at least two or more links associated with two nodes, but contends that this claim language is inconsistent with the remainder of the claim since other limitations of the claim are erroneously believed by the Examiner to preclude one-way travel involving more than two links. The Examiner's position is untenable, as the limitations of claim 1 do not preclude one-way travel involving more than two links.

Applicant does not dispute recitation by claim 1 of "a routing graph representing a network of roads including two or more directed links." Nor does applicant dispute the claim 1 recitation of "at least two of the directed links being associated with two nodes that are the same such that (1) a starting node of a first link of the at least two directed links is a same node as an ending node of a second link of the at least two directed links and (2) an ending node of the first link of the at least two directed links is the same node as a starting node of the second link of the at least two directed links." However, the Examiner's position is that such limitations preclude one-way travel from an origin to a destination. With this, applicant disagrees.

The stated claim limitations impose requirements on directed links that exist within a routing graph. They do not impose requirements on a preferred route that is determined using the routing graph, and thus, they do not require such a preferred route to preclude one-way travel, as suggested.

In fact, claim 1 clearly recites an additional step of using the routing system (and, by inference, its routing graph) to determine such a preferred route using at least one directed link

(emphasis added). This portion of claim 1 requires the preferred route to include only one of the directed links, and thus, cannot be said to preclude one-way travel, as suggested by the advisory action.

Notably, the Examiner states, in the advisory action, that the claim language is indefinite because the Examiner has created an example in which the Examiner believes claim language is not met. We disagree with this analysis, and with the facts relied upon in reaching the Examiner's conclusion, namely that the Examiner's example of link A to B, link B to C, and link C to A cannot be met by the claim language.

Specifically, the Examiner correctly states that link A to B and link B to A meet the claim language requiring (1) a starting node of a first link of the at least two directed links is a same node as an ending node of a second link of the at least two directed links and (2) an ending node of the first link of the at least two directed links is the same node as a starting node of the second link of the at least two directed links. The Examiner also correctly states that link A to B and link C to A do not meet the portion of the claim language that requires (2) an ending node of the first link of the at least two directed links is the same node as a starting node of the second link of the at least two directed links. However, links A to B and C to A do not themselves need to meet this limitation in order for the limitation to be met by a system that determines a preferred route that includes links A to B, B to C and C to A, or any other one-way travel. Rather, because these limitations impose requirements on directed links of the routing graph, they are capable of being met by even such a system. More specifically, the relevant aspects of claim 1 simply require the preferred route having links from A to B, B to C and C to A to have been determined from a routing graph having at least two directed links that (1) a starting node of a first link of the at least two directed links is a same node as an ending node of a second link of the at least two directed links and (2) an ending node of the first link of the at least two directed links is the same node as a starting node of the second link of the at least two directed links.

In addition, the Examiner erroneously asserts in the advisory action: "The applicant is reading limitations from the specification into the claims. That is, the applicant is interpreting the claimed "preferred route" as being a round trip (B to C and C to B). The claim calls for at least two or more links associated with two or more nodes." The Examiner appears to have misunderstood and thus mischaracterizes an aspect of applicant's November response as "interpreting the claimed 'preferred route' as being a roundtrip (B to C and C to B)." Rather, as

can be appreciated from a thorough read of applicant's November 22, 2005 response, applicant merely refers to one example from within the specification to rebut an earlier contention made by the Examiner -- namely, that there is no possible connection between links and nodes that satisfies the claim language of the independent claims. See response to final action at pages 1-3 (quoting the Specification at pages 8-9). Applicant does not mentioned an example of a preferred route, much less "a round trip," "preferred route," "roundtrips," "one-way route" or "one-way travel," as the Examiner erroneously states in the advisory action. See response to final action at pages 1-3. As such, it is error for the Examiner to assert that such language is being read into the claims.

Therefore, for at least these reasons and the reasons stated in the reply to final action, the indefiniteness rejection is improper and should be withdrawn.

2. Fujita does not anticipate the independent claims.

The advisory action is incorrect in stating that "applicant only argued the patentability of the process claims, not the system or product claims." Rather, patentability of independent claims 1, 13 and 25 was argued. See final action at page 13.

Substantively, the Examiner's asserts, in the final action, that a link in Fujita that joins two "nodes can also be considered as a second link (according to applicant's interpretation) when traveling in an opposite direction to the first said direction of travel." See final action at page 15, lines 9-14. The Examiner's assertion is erroneously based, not on a disclosure in Fujita, but instead based on the applicant's example from the Specification of a line in Fig. 3 that represents two links, as described previously.[1] See Specification at page 9, lines 1-3. Thus, the Examiner impermissibly reads Fujita with hindsight gleaned through the Specification teachings. Absent such hindsight, it is clear that Fujita merely shows a line between two nodes and does not disclose that the line between two nodes represents two directed links, with a directed link being associated with a direction of travel from a starting node to an ending node, as recited in claim 1. See response to final action at pages 3-4.

The Examiner apparently maintains the position that "a direction of travel of a vehicle on a link on a given road suggests a direction of travel of that link on that road since the vehicle is associated with the given road." See final action at page 16, lines 8-10. Applicant respectfully disagrees that a vehicle traveling in a direction on a road describes or suggests a direction of

[1] To be clear, applicant does not interpret Fujita's line as representing two directed links.

travel that is associated with the road itself, much less describing or suggesting that a directed link of the routing graph is associated with a direction of travel along the directed link from a starting node to an ending node, as recited in claim 1. See response to final action at pages 6 and 10-13. Further, applicant yet again notes that no portions of Fujita are cited by the Examiner in the rejection of claim 1 for the following limitation: in a routing graph representing a network of roads that includes two or more nodes and two or more directed links, at least two of the directed links are associated with two nodes that are the same such that (1) a starting node of a first link of the at least two directed links is a same node as an ending node of a second link of the at least two directed links and (2) and an ending node of the first link of the at least two directed links is the same node as a starting node of the second link of the at least two directed link. See final action at page 3, lines 12-17.

Moreover, because Fujita does not describe or such a directed link as claimed, Fujita necessarily cannot disclose using the routing system to determine a preferred route from the origin to the destination by using at least one directed link, as recited in independent claims 1, 13 and 25. Therefore, the anticipation rejection is improper and should be withdrawn.

Conclusion and Relief

For at least the reasons noted above, the rejections of record are clearly improper and without basis. In view of the above, all of the claims are in condition for allowance. A formal notice of allowance is thus respectfully requested.

No fee is believe due. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: January 9, 2006

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